

REMARKS

Status of the Claims

Upon entry of the amendment above, claims 1-29 will be pending, claims 1, 19, and 22 being independent. Claims 8-17 stand withdrawn from consideration. All of the newly added claims are directed to the elected invention.

Summary of the Office Action

Claims 1-6 are rejected under 35 USC §102(b) as being anticipated by MARCH (U.S. Patent No. 4,843,654).

Claim 7 is rejected under 35 USC §103(a) as being unpatentable over MARCH.

The Office action asserts that Applicant has not filed a certified copy of their priority application

Response to the Office Action

A. Request for Acknowledgement of Receipt of Certified Copy of Priority Application

Applicant requests acknowledgement of the filing of a certified copy of her priority application, which was filed on July 23, 2004.

B. Request for Withdrawal of Rejections

Applicant kindly requests that the two grounds of rejection based upon MARCH be withdrawn at least for the following reasons.

With reference to the elected invention shown in Figs. 1 and 2, although analogous for other embodiments/species, Applicant's article of clothing includes an inner portion 10, an outer portion 20, and a connecting band 14, the connecting band connecting the inner and outer portions. The connecting configuration can be seen well in the transverse cross-sectional view of Fig. 2 and it is encompassed by the recitation in original claim 1, appearing, after amendment above, as new claim 19, as well as in claim 1, as amended above.

In claims 1 and 19, Applicant has specified that the inner portion is “adapted to fit snugly to a wearer” and that the outer portion is “adapted to fit more loosely to the wearer.”

By contrast, one can see in Fig. 8 of MARCH that the inner portion 14, outer portion 16, and intermediate insulation layer 15 form a composite structure, as explained by MARCH in column 2, lines 20-59, lines 24-28 in particular. As such, Applicant submits, if the inner portion 16 were to fit “snugly to a wearer,” the outer portion 14 would, as well, fit snugly to a wearer.” Because the inner and outer portions of MARCH’s riding pants are part of a single composite structure, the inner portion is not adapted to fit snugly while the outer portion is fit loosely. Instead, the composite material – and both the inner and outer portions thereof – would either fit snugly or loosely, but not both.

On the other hand, with Applicant’s claimed invention, if a body part of the wearer, such as the wearer’s leg, were to fit snugly relative to the inner portion 12 (Applicant’s Fig. 2), the outer portion 22 can be “fit more loosely.” Inner and outer portions 12, 22 are not stitched together, e.g., around the transverse periphery, such as the transverse periphery of the cross-sectional view shown in Applicant’s Fig. 2, as are portions of the composite structure of MARCH.

More specifically, MARCH discloses that the riding pants of her invention include a leather strip 19 on the inner portions of the legs and an elastic insert 18 on the outer portions of the legs (see Fig. 9, which illustrates the elastic insert 18). In the rejection of claim 1 (and other claims), the rejection relies upon the assertion that Applicant’s claimed connecting band can either strip 19 or insert 18 of MARCH.

Because the elastic insert 18 connects together the ends of the composite structure as a unit (see Fig. 8), rather than the inner and outer portions 14, 16, Applicant submits that the elastic insert 18 would cause both portions 14, 16 to fit around the wearer’s legs by the same degree of force, rather than one portion more snugly and the other more loosely.

In spite of the foregoing, Applicant has amended independent claim 1 to specify that the outer portion is movable relative to the inner portion.

By contrast, because MARCH creates a composite structure with the inner lining 16, outer layer of fabric 14, and intermediate insulation layer 15, the outer fabric layer 14 is not movable relative to the underlying inner lining 16.

Still further, Applicant respectfully submits that MARCH fails to anticipate or render obvious the invention of Applicant's claim 18. New claim 18 is similar to claim 6, i.e., both claims specifying that the connecting band is located in the crotch area of the article of clothing, although new claim 18 depends from claim 5, the latter specifying that the connecting band is made of an elastic material.

Applicant submits that one skilled in the art would not have used an elastic material for the strip 19 of MARCH.

In this regard, MARCH's disclosure makes clear (see, e.g., column 2, lines 52-59) that the strip 19 should be made of a "frictional material" such as leather, which assists in holding the rider in the saddle. Therefore, the combination of the connecting band of Applicant's invention being "elastic" and located in the area of the crotch would be *contrary* to MARCH's disclosure.

Lastly, Applicant requests reconsideration and withdrawal of the obviousness rejection of claim 7. Claim 7 merely adds the limitation that "the article of clothing is shorts," whereas MARCH discloses long pants. The examiner takes the position that modifying the long pants of MARCH to be shorts would have been obvious.

In view of this position, Applicant requests that the restriction of the species shown in Fig. 3 be withdrawn vis-à-vis the species of the elected invention shown in Fig. 2, which restriction was premised upon their being independent and patentably distinct.

C. New Claims

As mentioned above, new claims 18-29 have been added. Dependent claim 18 and independent claim 19 have been mentioned above in connection with Applicant's comments pertaining to the rejections based upon MARCH.

Claims 20 and 21 depend from claim 19 and should be allowable at least for reasons that claim 19 is allowable.

In addition, claim 20 calls for the outer portion to overlap the inner portion around less than the entire circumferential periphery of the limb of the wearer, with at least one of the outer and inner portions having a first longitudinally extending edge and a second longitudinally extending edge, such first and second edges being circumferentially spaced apart.

Claim 21 specifies that the outer portion overlies the inner portion with an air gap between the inner and outer portions (as shown, e.g., in Applicant's Fig. 2).

New Independent claim 22 calls for at least the inner portion to be adapted to extend in a direction around a transverse periphery of a body part of a wearer and that the outer portion overlies the inner portion along less than an entirety of the transverse periphery of the body part of the wearer, with at least one of the inner and outer portions having a pair of peripherally spaced-apart longitudinally extending edges. Further, claim 22 calls for the connecting band to connect the pair of peripherally spaced-apart longitudinally extending edges and that the overlying outer portion is movable relative to an underlying surface of the inner portion. This combination of features is not taught or suggested by MARCH. For example, as mentioned above, MARCH discloses a composite structure 14, 15, 16 for which the layers are not disclosed as being movable relative to the others.

New claim 23 calls for the connecting band to comprise a material distinct from and assembled to the inner and outer portions.

New claim 24 calls for the connecting band to comprise an elastic material.

New claim 25 calls for the connecting band to comprise an inextensible material or an elastic material and that the inner portion also comprises an elastic material.

New claim 26 specifies that the connecting band is located in a crotch area of the article of clothing.

New claim 27 specifies that the inner portion is adapted to fit snugly to the body part of the wearer while the outer portion is not fit snugly to the body part of the wearer.

New claim 28 specifies that a space is located between the outer portion and the underlying surface of the inner portion.

New claim 29 specifies that both of the inner and outer portions have respective pairs of peripherally spaced-apart longitudinally extending edges.

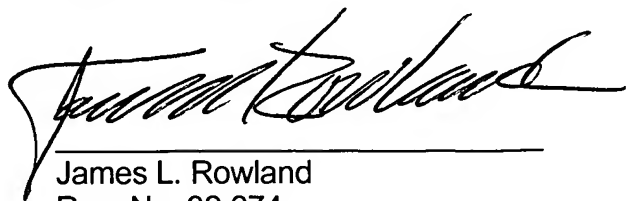
SUMMARY AND CONCLUSION

The rejections advanced in the Office action have been addressed and are believed to be overcome. Reconsideration and allowance are respectfully requested in view of the amendment and remarks above.

Payment is being made herewith for a fee for an extension of time for three months and for additional claims. No additional fee is believed to be due at this time. However, the Commissioner is authorized to charge any fee required for acceptance of this reply as timely and/or complete to Deposit Account No. 19-0089.

Any comments or questions concerning this application can be directed to the undersigned at the telephone number, fax number, or the e-mail address given below.

Respectfully submitted,
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November 13, 2006
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